

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 16916 of 1998

Between:

Nagarjuna Cooperative Sugar Factory Employees Union, Regd.No. C-608, rep. by
its General Secretary,
Dasari Srinivasa Rao S/o. D.V. Krishnaiah
R/o. Gurajala, Guntur District, A.P.

..... PETITIONER

AND

1. The State of A.P., rep. by its Secretary, Industries and Commerce (Sugar) Department, Secretariat, Hyderabad.
2. The Director of Sugar and Cane Commissioner, First Floor, Alway, M.J.Road, Nampally, Hyderabad, A.P.,
3. The Person-in-charge/Project Director, District Rural Development Agency, Guntur, Nagarjuna Cooperative Sugars Ltd., Gurajala, Guntur District, A.P.
4. The Managing Director, Nagarjuna Cooperative Sugars Ltd., Gurajala, Guntur District, Andhra Pradesh.
5. The State of A.P. rep. by its Secretary, Public Enterprises-II Department, Secretariat, Hyderabad.

(R5 is impleaded as per the Court order dated: 23.4.2004 in WPMP No. 3629 of 2004)

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of MANDAMUS, declaring the Memo.No.25027/SUG/A2/97-3, dt. 5-1-1998 issued by the first respondent herein i.e.

the State of A.P., represented by its Secretary, Industries and Commerce (Sugar) Department, Secretariat, Hyderabad, as unjust and illegal after calling for the records.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU

Counsel for Respondent Nos 1,2 &5: G.P. for Industries & Commerce.

Counsel for Respondent No.3: None appeared.

Counsel for Respondent No.4: Mr.S.V.Bhatt.

The Court made the following :

ORAL ORDER:

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The question that falls for consideration in this Writ Petition is as to whether the provisions of Section 25-C to 25-E of the Industrial Disputes Act, 1947 are applicable to the industry in question i.e. Nagarjuna Cooperative Sugar Factory (Sugar Industry), which is normally said to be of seasonal character?

Learned counsel for the petitioner-Union submits that for the industrial establishments, which are seasonal in character, the above provisions must be construed to have no application in case of permanent workers, who are employed for twelve months of a year. An industry can be said to be of a seasonal character, where the employees are employed only during particular seasons like the crushing season. The members of the petitioner-Union being permanent employees who worked for 12 months of a year cannot be termed as seasonal workers. Therefore, the judgment rendered by this Court in Writ Petition No.2405 of 1985 on 14.10.1987, and, relied upon by the management has no application to the facts of this case.

The language employed in Section 25-A(b) of the Act reads as under:

“ to industrial establishments which are seasonal in character or in which the work is performed only intermittently”

The above provision, strictly speaking, refers to industrial establishment, but not industrial workers. However, the learned counsel for the petitioner-Union submits that this has been taken care of by various judgments holding that these provisions

have no application to the employees who are working permanently for 12 months of a year even if they are working in industrial establishments, which are of seasonal character. Seasonal character is attributed to the main activity of the industry and not to the nature of duties attended to by the workers. These are the matters to be gone into in appropriate proceedings, since the status of the members of the petitioner-Union is not clear as to whether they are permanent employees or seasonal employees, except the averments in the affidavit. Unless it is decided that these employees are permanent employees and were engaged for twelve months of a year, the further question of applicability of the provisions of Section 25-C to 25-E cannot be examined. Even to decide as to whether the petitioners are permanent employees or seasonal employees, it requires evidence to be led into and conclusions to be arrived at thereupon. In writ proceedings, it may not be appropriate for this Court to declare that the petitioners are permanent employees of an industrial establishment of seasonal character on the basis of affidavits before this Court. It is contended by the learned counsel for the respondents that the members of the petitioner-Union have taken voluntary retirement as offered by the industry and they have left after taking all the benefits there-under without any protest as to the claim made in the present Writ Petition.

Be that as it may, in the circumstances of this case, I am of the considered opinion that the petitioner should approach the appropriate Labour Court or the Industrial Tribunal and work out its remedies by way of a claim petition and by leading appropriate evidence before the said court. The petitioner can raise all the questions, which are available to it, including those which have been raised in this Writ Petition. Therefore, the Writ Petition is disposed of giving liberty to the petitioner to approach the appropriate Labour Court or Industrial Tribunal by filing an appropriate claim petition. On filing such a claim petition, the labour court/industrial tribunal shall entertain the same and decide on merits within a period of six months from the date of filing of such a petition. No costs.

C.V.RAMULU, J.

13.10.2004.

VR.

To

1. The Secretary to Government of A.P., Industries and Commerce (Sugar) Department, Secretariat, Hyderabad.
2. The Director of Sugar and Cane Commissioner, First Floor, Alway, M.J.Road, Nampally, Hyderabad, A.P.,
3. The Person-in-charge/Project Director, District Rural Development Agency, Guntur, Nagarjuna Cooperative Sugars Ltd., Gurajala, Guntur District, A.P.
4. The Managing Director, Nagarjuna Cooperative Sugars Ltd., Gurajala, Guntur District, Andhra Pradesh.
5. The Secretary to Government of A.P., Public Enterprises-II Department, Secretariat, Hyderabad.
6. Two CCs to Govt. Pleader for Industries and Commerce, High Court Buildings, Hyderabad (OUT).
7. Two CD copies.